IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 3RD JANUARY 2007 / 13TH POUSHA, 1928

Crl.MC.No. 4066 of 2006()

CC.1044/2005 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOTTARAKKARA.
CRIME NO.169/05 OF KADAKKAL POLICE STATION.

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PETITIONER:

DWDEEYA LAL, (WRONGLY SHOWN AS
DWDEEYA KUMAR IN ANN.A.CHARGE SHEET),
S/O.VISWAMBHARAN, PUTHATTU KUNNIL VEEDU,
PAZHAYAKUNNINMEL VILLAGE, KILIMANOOR,
THIRUVANANTHAPURAM DIST.

BY ADV. SRI.M.R.RAJESH
SMT.BINDHYA JOSE

RESPONDENTS: STATE AND DEFACTO COMPLAINANT

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1. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

2. MANJUJA, D/O.VASANTHAKUMARI,
S.V.BHAVAN, PEZHUMMOODU, CHITHARA VILLAGE,
KOLLAM DISTRICT.

BY P.P.SRI. GIKKU JACOB.
BY ADV. SMT.A.K.PREETHA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 4066 OF 2006

Dated this the 3rd day of January, 2007

ORDER

The petitioner is the sole accused in a prosecution under Sec.498A of the IPC pending before the Judicial Magistrate of the First Class-II, Kottarakkara, as C.C.No.1044/05. The said proceedings has been initiated on the basis of a complaint of the 2nd respondent – his wife that he was guilty of matrimonial cruelty against her.

2. The 2nd respondent/complainant has entered appearance through counsel. The learned counsel for the 2nd respondent as well as the learned Public Prosecutor submit that the matter has been settled between the parties and the petitioner and the 2nd respondent are residing together harmoniously now. In these circumstances, it is submitted that the continuance of the prosecution has become meaningless and an unnecessary irritant in their relationship. It is, in these circumstances, prayed that the prosecution against the petitioner may be quashed. The petitioner, the 2nd respondent and the learned Public Prosecutor all endorse

the same request. The decision in **B.S. Joshy v. State of Haryana** (AIR 2003 SC 1386) clearly shows that even in cases where the offences are non-compoundable, the powers under Sec.482 of the Cr.P.C. can be invoked in an appropriate case to save the spouses of the unnecessary ordeal of continuing the prosecution. I am satisfied that this is a fit case where, in the interests of justice, the powers under Sec.482 of the Cr.P.C. can be invoked as requested commonly by all concerned.

3. In the result:

(i) This Crl.M.C. is allowed.

(ii) C.C.No.1044/05 pending before the Judicial Magistrate of the First Class-II, Kottarakkara, under Sec.498A of the IPC against the petitioner is hereby quashed.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge